

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ERIC X. RAMBERT,)	
)	
Petitioner,)	Civil Action No. 20 – 948
)	
v.)	District Judge David S. Cercone
)	Magistrate Judge Lisa Pupo Lenihan
LEE ESTOCK and ATTORNEY)	
GENERAL JOSH SHAPIRO,)	
)	
Respondents.)	

MEMORANDUM ORDER

Eric X. Rambert (“Petitioner”) has submitted a Motion for Leave to Proceed *in forma pauperis* (ECF No. 2) along with a Motion for Reconsideration (ECF No. 2-1). Both Motions were referred to United States Magistrate Judge Lisa Pupo Lenihan in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72 of the Local Rules for Magistrate Judges.

On July 10, 2020, Judge Lenihan filed a Report and Recommendation (“R&R”) wherein she recommended the following: (1) the Motion for Leave to Proceed *in forma pauperis* be granted solely for the purpose of filing Petitioner’s Motion for Reconsideration, (2) the Motion for Reconsideration be construed as a Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254, (3) the Petition for Writ of Habeas Corpus be dismissed for lack of jurisdiction as an unauthorized second or successive petition, and (4) a certificate of appealability be denied to the extent that one is required to proceed on appeal. (ECF No. 3.) Petitioner was served with the R&R and filed timely Objections thereto on July 22, 2020. (ECF No. 4.)

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must now make a *de novo* determination of those portions of the R&R to which objections were made. The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The Court may also recommit the matter to the magistrate judge with instructions.

Upon review of the R&R and Petitioner's Objections thereto, the Court concludes that the Objections do not undermine the R&R's recommended disposition. Accordingly, the following order is now entered.

AND NOW, this 16th day of October, 2020;

IT IS HEREBY ORDERED that the R&R (ECF No. 3) is adopted as the opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Leave to Proceed *in forma pauperis* (ECF No. 2) is **GRANTED** solely for the purpose of filing the Motion for Reconsideration (ECF No. 2-1).

IT IS FURTHER ORDERED that the Motion for Reconsideration (ECF No. 2-1) is construed as a Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254.

IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus is **DISMISSED** for lack of jurisdiction as an unauthorized second or successive petition.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

s/ David S. Cercone

David S. Cercone
United States District Judge

Cc: Eric X. Rambert
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